

RULE

Department of Health Board of Medical Examiners

Physician Practice; Marijuana for Therapeutic Use by Patients Suffering From a Debilitating Medical Condition (LAC 46:XLV.Chapter 77)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (Board) by the Louisiana Medical Practice Act, R.S. 37:1270, and Louisiana law governing therapeutic marijuana, R.S. 40:1046, the Board has amended its rules governing physicians who diagnose their patients with a debilitating medical condition for which therapeutic marijuana may be recommended, LAC 46:XLV Chapter 77. The amendments are set forth below. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 77. Marijuana for Therapeutic Use by Patients Suffering from a Debilitating Condition

Subchapter A. General Provisions

§7705. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified.

* * *

Bona-Fide Physician-Patient Relationship—a relationship in which a physician:

a. has conducted at least one in-person examination at a physical practice location, or another location identified in his or her registration under this Chapter, in this state;

b. - c. ...

Consult or Consultation—as used in this Chapter, means advice or opinions provided to a physician registered with the board to recommend therapeutic marijuana, by a pediatric subspecialist regarding a patient's diagnosis of ASD and treatment with therapeutic marijuana. The consultation may be obtained in person or by telephone, telemedicine or electronic mail, provided it affords for medical/health information privacy and security. The request for and report of the consultant must be documented in the patient record of the requesting physician, who shall remain personally responsible to the patient for the primary diagnosis and any treatment provided. If the consultant's advice or opinions are not accepted by the requesting physician, the medical record should document the consultation and the reason(s) why it was not accepted.

* * *

Debilitating Medical Condition (also referred to in this Chapter as a *Qualifying Medical Condition*)—means any of the following:

- a. cancer;
- b. glaucoma;
- c. Parkinson's disease;

- d. positive status for human immunodeficiency virus;
- e. acquired immune deficiency syndrome;
- f. cachexia or wasting syndrome;
- g. seizure disorders;
- h. epilepsy;
- i. spasticity;
- j. severe muscle spasms;
- k. intractable pain;
- l. Crohn's disease;
- m. muscular dystrophy;
- n. multiple sclerosis;
- o. post-traumatic stress disorder;
- p. any of the following conditions associated with autism spectrum disorder (ASD); provided, however, that prior to recommending therapeutic marijuana for any condition associated with ASD to a patient under eighteen years of age, the physician shall consult with a pediatric subspecialist:

- i. repetitive or self-stimulatory behavior of such severity that the physical health of the person with autism is jeopardized;

- ii. avoidance of others or inability to communicate of such severity that the physical health of the person with autism is jeopardized;

- iii. self-injuring behavior;

- iv. physically aggressive or destructive behavior;

- q. and such other diseases or conditions that may subsequently be identified as a debilitating medical condition by amendment of R.S. 40:1046 or other state law.

Intractable Pain—for purposes of this Chapter, means a pain state in which the course of the pain cannot be removed or otherwise treated with the consent of the patient and which, in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible, or none has been found after reasonable efforts. It is pain so chronic and severe as to otherwise warrant an opiate prescription.

* * *

Pediatric Subspecialist—an individual licensed to practice medicine in any state in the United States who provides care to patients with ASD.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:319 (February 2017), LR 45:1471 (October 2019).

Subchapter B. Prohibitions and Exceptions

§7707. Prohibitions

A. No physician shall:

1. ...

2. Repealed.

3. - 4. ...

5. if registered with the board under this Chapter, have an ownership or investment interest established through debt, equity, or other means, whether held directly or indirectly by a physician or a member of a physician's immediate family,

nor any contract or other arrangement to provide goods or services, in or with a licensed therapeutic marijuana pharmacy or a producer licensed by the Louisiana Department of Agriculture and Forestry to produce marijuana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 45:1472 (October 2019).

§7709. Exceptions

A. This Chapter is subject to the following exceptions.

1. - 2.b. ...

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:319 (February 2017), LR 45:1472 (October 2019).

Subchapter D. Marijuana for Therapeutic Purposes, Limitations, Access to Records

§7717. Use of Marijuana for Therapeutic Purposes, Limitations

A. Required Prior Conditions. Nothing in this Chapter requires that a physician issue a written request or recommendation for marijuana. However, if a physician determines it medically appropriate to do so to treat or alleviate symptoms of a patient's qualifying medical condition the physician shall comply with the following rules.

1. - 3. ...

4. Treatment Plan. An individualized treatment plan shall be formulated and documented in the patient's medical record which includes medical justification for the use of marijuana. In addition, the plan shall include documentation:

a. - c. ...

d. of compliance with the board's rules on chronic or intractable pain, set forth in 6915-6923 of this Part, if therapeutic marijuana is utilized for the treatment of non-cancer-related chronic or intractable pain.

5. ...

6. Continued Use of Marijuana. The physician shall monitor the patient's progress at such intervals as the physician determines appropriate to assess the benefits of treatment, assure the therapeutic use of marijuana remains indicated, and evaluate the patient's progress toward treatment objectives. During each visit, attention shall be given to the possibility that marijuana use is not masking an acute or treatable progressive condition or that such use will lead to a worsening of the patient's condition. Indications of substance abuse or diversion should also be evaluated.

A.7. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2633 (December 2015), amended by the Department of Health, Board of

Medical Examiners, LR 43:319 (February 2017), LR 45:1472 (October 2019).

§7721. Form of Written Request or Recommendation

A. - B. ...

C. Manner of Transmission. A written request or recommendation for therapeutic marijuana shall be transmitted by the physician or physician's designee to a licensed therapeutic marijuana pharmacy by facsimile or in another electronic manner that provides for medical/health information privacy and security and is in compliance with rules promulgated by the Louisiana Board of Pharmacy. The pharmacy shall be selected by the patient from a list of licensed therapeutic marijuana pharmacies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2634 (December 2015), amended by the Department of Health, Board of Medical Examiners LR 43:320 (February 2017), LR 45:1472 (October 2019).

§7729. Appendix—Form for Recommendation for Therapeutic Marijuana

—THIS IS NOT A PRESCRIPTION—

PHYSICIAN RECOMMENDATION FORM

* * *

Section C. Patient's Debilitating Medical Condition(s) (Required)

This patient has been diagnosed with the following debilitating medical condition: (A minimum of one condition must be checked)	
<input type="checkbox"/> Acquired Immune Deficiency Syndrome	<input type="checkbox"/> Intractable Pain
<input type="checkbox"/> Cachexia or Wasting Syndrome	<input type="checkbox"/> Post-Traumatic Stress Disorder
<input type="checkbox"/> Cancer	<input type="checkbox"/> Any of the following conditions associated with autism spectrum disorder:
<input type="checkbox"/> Crohn's Disease	<input type="checkbox"/> (i) repetitive or self-stimulatory behavior of such severity that the health of the person with autism is jeopardized;
<input type="checkbox"/> Epilepsy	<input type="checkbox"/> (ii) avoidance of others or inability to communicate of such severity that the physical health of the person with autism is jeopardized;
<input type="checkbox"/> Multiple Sclerosis	<input type="checkbox"/> (iii) self-injuring behavior;
<input type="checkbox"/> Muscular Dystrophy	<input type="checkbox"/> (iv) physically aggressive or destructive behavior.
<input type="checkbox"/> Positive Status for Human Immunodeficiency Virus	
<input type="checkbox"/> Spasticity	
<input type="checkbox"/> Seizure Disorders	
<input type="checkbox"/> Glaucoma	
<input type="checkbox"/> Parkinson's Disease	
<input type="checkbox"/> Severe Muscle Spasms	

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, and R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2635 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:320 (February 2017), LR 45:1472 (October 2019).

Vincent A. Culotta, Jr., M.D.
Executive Director

1910#011